

Taxpayers under the Public Utility Revenue Act are liable for the public utility revenue tax with respect to gross receipts from the furnishing of electricity for use or consumption and not for resale. This is true even though the customer is a church or a charity. 86 Ill. Adm. Code Section 510.170. (This is a GIL.)

January 4, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated November 18, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Our company is a utility consulting firm and we currently did an audit on the Public Library District's utility billing history. We would like to find out whether the library district was or is exempt from state tax based on the old law and the new law that came out in this August. If you could fax or call me regarding the information I request, I really appreciate it.

Thank you for your time.

The Electricity Excise Tax Law becomes effective August 1, 1998. This tax is imposed upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. The incidence of this tax is on the consumers.

Because the incidence of the Electricity Excise Tax is on the consumers, the Department believes that sales to the federal government are not taxable under the Electricity Excise Tax Law by virtue of the Supremacy Clause of the United States Constitution. Please note that this is also supported by the definition of the term "person" (and by reference for the term "purchaser") in Section 2-3 of the Electricity Excise Tax law that fails to reference the Federal Government but does specifically reference "any city, town, village, county, or other political subdivision of this State." Therefore, while the federal government is exempt from Electricity Excise Tax, only municipal corporations owning and operating local transportation systems for public service are exempt. All other local units of government and subdivisions thereof, are subject to the tax.

In regards to the Public Utility Revenue Act, as indicated at 86 Ill. Adm. Code Section 510.170, enclosed, taxpayers under the Public Utility Revenue Act are liable for the public utility revenue tax with respect to gross receipts from

the furnishing of electricity to any religious, educational or charitable institution for use or consumption and not for resale. This means that entities required to pay the Public Utility Revenue Tax are authorized to reimburse themselves by collecting a reimbursement charge from otherwise tax exempt organizations. The exemption identification number issued to the State of Illinois, its departments, agencies, counties, municipalities, school districts or other political subdivisions of the State does not exempt those organizations from the reimbursement charge which shows up on their bills as "State Tax".

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.